

IT 95-79
Tax Type: INCOME TAX
Issue: Non-Filer (Income Tax)

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS

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DEPARTMENT OF REVENUE      )  
STATE OF ILLINOIS          )  
                             )   Docket:  
          v.                )   SSN:  
                             )  
XXXXXX,                    )  
                             )   Wendy S. Paul  
                             )   Admin. Law Judge  
Taxpayer(s)                )  
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RECOMMENDATION FOR DISPOSITION

SYNOPSIS: This matter comes on for hearing pursuant to the taxpayer's timely protest of a Notice of Deficiency issued by the Department on May 11, 1995 for tax deficiencies, penalties and statutory interest arising out of taxpayer's failure to timely file tax returns and pay tax liabilities for tax years 1987 through 1992. At issue are the questions of whether taxpayer failed to file Illinois income tax returns and pay tax liabilities for the years at issue and whether reasonable cause existed for his failure to do so. An evidentiary hearing was held on August 25, 1995. Following the submission of all evidence and a review of the record, it is recommended that this matter be resolved in favor of the Department on all issues.

FINDINGS OF FACT:

1. The Department's prima facie case, inclusive of all jurisdictional elements, was established by the admission into evidence of the Notice of Deficiency, the Protest, and information received from the Internal Revenue Service under the Federal/State Exchange Program.

Dept. Ex. No. 1 through 4.

2. For the years at issue, taxpayer received income as a resident of Illinois and failed to file required Illinois tax returns or pay tax to the state of Illinois.

3. Reasonable cause did not exist for the failure of taxpayer to file returns or timely pay his tax liabilities to the state of Illinois.

Conclusions of Law:

A person who earns or receives income in or as a resident of Illinois is required to file a state income tax return and pay their tax liabilities in a timely manner, as provided by statute. 35 ILCS 5/201; 5/502(a); 5/505(a)(2).

For the tax years at issue, taxpayer was required to, and failed to, timely file tax returns and pay tax liabilities to the state of Illinois.

In his Protest, taxpayer did not contest his failure to comply with the filing and payment requirements. He did, however, dispute the amounts of the proposed assessments contained in the Department's Notice of Deficiency, on the ground that "[t]he corresponding IRS forms are currently being revised to show lower net incomes." The gist of taxpayer's testimony at the hearing was that he was in the process of revising his federal tax returns for the years at issue; that the matter was under review at the Internal Revenue Service; and that therefore, the Department's information, which was based upon information received from the Internal Revenue Service, was incorrect because eventually, at some undetermined time in the future, the amounts will be lowered at the federal level. Taxpayer provided no evidence of any final federal changes to the line items as reflected in the documentation received by the Department from the Internal Revenue Service (Dept. Ex. No. 4), so that the Department's prima facie case, with respect to the tax deficiencies proposed in the Notice, was un rebutted.

Further, there was no evidence to support an abatement of penalties

pursuant to 35 ILCS 5/1001, 5/1005 and 5/804.

Accordingly, it is my recommendation that the Notice of Deficiency be upheld in its entirety.

Wendy S. Paul
Administrative Law Judge

Date: August 25, 1995